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OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

FORTY-THIRD LEGISLATIVE DAY
MONDAY, FEBRUARY 23, 2004

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 10:15 a.m.

Roll call showed all members present except Senators Hill, Noble, Richardson, and Stegner, absent and formally excused by the Chair; and Senators Burkett, Sorensen, and Stennett, absent and excused.

Prayer was offered by Chaplain Don Hardenbrook.

The Pledge of Allegiance was led by Tiffany Lee, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 20, 2004, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SCR 127

BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE DEPARTMENT OF AGRICULTURE RELATING TO LIVESTOCK MARKETING.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Department of Agriculture relating to livestock marketing is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 02.04.26, rules of the Department of Agriculture governing livestock marketing, the entire rulemaking docket, adopted as a pending rule under Docket Number 02-0426-0301, be, and the same is hereby rejected and declared null, void and of no force and effect.

SCR 128

BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE DEPARTMENT OF AGRICULTURE RELATING TO TUBERCULOSIS AND THE PRIVATE FEEDING OF BIG GAME ANIMALS.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Department of Agriculture relating to tuberculosis and the private feeding of big game animals are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 02.04.24, Section 022, Subsection 02, rules of the Department of Agriculture governing tuberculosis and inspections, adopted as a pending rule under Docket Number 02-0424-0301, and IDAPA 02.04.25, rules of the Department of Agriculture governing the private feeding of big game animals, the entire rulemaking docket, adopted as a pending rule under Docket Number 02-0425-0301, be, and the same are hereby rejected and declared null, void and of no force and effect.

SCR 129

BY STATE AFFAIRS COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING CERTAIN RULES OF THE IDAHO FISH AND GAME COMMISSION RELATING TO COMMERCIAL FISHING.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that certain rules of the Idaho Fish and Game Commission relating to commercial fishing are not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 13.01.12, rules of the Idaho Fish and Game Commission governing commercial fishing in the state of Idaho, the entire rulemaking docket, adopted as a pending rule under Docket Number 13-0112-0301, be, and the same is hereby rejected and declared null, void and of no force and effect.

SCR 127, SCR 128, and SCR 129 were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senator Stennett was recorded present at this order of business.

February 20, 2004

The HEALTH AND WELFARE Committee reports out **S 1299, S 1316, and S 1318** with the recommendation that they do pass.

BRANDT, Chairman

S 1299, S 1316, and S 1318 were filed for second reading.

February 20, 2004

The HEALTH AND WELFARE Committee reports out **S 1317** with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

BRANDT, Chairman

There being no objection, **S 1317** was referred to the Fourteenth Order of Business, General Calendar.

February 20, 2004

The EDUCATION Committee reports out **S 1323, S 1356, and SCR 125** with the recommendation that they do pass.

SCHROEDER, Chairman

S 1323 and S 1356 were filed for second reading.

SCR 125 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 20, 2004

The EDUCATION Committee reports out **S 1310 and S 1328** with the recommendation that they be referred to the Fourteenth Order of Business for amendment.

SCHROEDER, Chairman

There being no objection, **S 1310 and S 1328** were referred to the Fourteenth Order of Business, General Calendar.

February 20, 2004

The RESOURCES AND ENVIRONMENT Committee reports out **H 521** with the recommendation that it do pass.

NOH, Chairman

H 521 was filed for second reading.

February 20, 2004

The JUDICIARY AND RULES Committee reports out **S 1302** with the recommendation that it do pass.

DARRINGTON, Chairman

S 1302 was filed for second reading.

February 20, 2004

The STATE AFFAIRS Committee reports out **H 607, S 1309, S 1372, H 509, and H 535** with the recommendation that they do pass.

SORENSEN, Chairman

H 607, S 1309, S 1372, H 509, and H 535 were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

February 20, 2004

Mr. President:

I transmit herewith **H 627** which has passed the House.

JUKER, Chief Clerk

H 627 was filed for first reading.

February 19, 2004

Mr. President:

I return herewith Enrolled **S 1223**, which has been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1223** was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President Pro Tempore announced the Judiciary and Rules Committee report relative to the Gubernatorial appointment of Mike Matthews, having been held, was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Darrington, seconded by Senator Marley, the Gubernatorial appointment of Mike Matthews as a member of the Commission on Pardons and Parole was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

Senators Sorensen and Burkett were recorded present at this order of business.

The President Pro Tempore announced that **SJM 108** was before the Senate for final consideration, the question being, "Shall the memorial be adopted?"

On motion by Senator Schroeder, seconded by Senator Werk, **SJM 108** was adopted by voice vote, title was approved, and the memorial ordered transmitted to the House.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,
House Petitions, Resolutions, and Memorials**

S 1381**BY FINANCE COMMITTEE****AN ACT**

APPROPRIATING MONEYS TO THE IDAHO TRANSPORTATION DEPARTMENT FOR FISCAL YEAR 2005; LIMITING THE NUMBER OF AUTHORIZED FULL-TIME EQUIVALENT POSITIONS; EXPRESSING LEGISLATIVE INTENT WITH REGARD TO CERTAIN TRANSFERS BEING CONTINUOUSLY APPROPRIATED; AUTHORIZING THE TRANSFER OF HIGHWAY FUNDS TO THE AERONAUTICS FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES OF THE RESTRICTED DISASTER STATE HIGHWAY FUND; REAPPROPRIATING CERTAIN UNEXPENDED AND UNENCUMBERED BALANCES FOR AIRPORT DEVELOPMENT GRANTS; AUTHORIZING THE TRANSFER OF HIGHWAY FUNDS TO THE TOURISM AND PROMOTION FUND; AND RECOGNIZING THE IDAHO TRANSPORTATION DEPARTMENT'S PRACTICE OF TRANSFERRING REMAINING ELIGIBLE SPENDING AUTHORITY TO CONTRACT CONSTRUCTION AND RIGHT-OF-WAY ACQUISITION.

S 1382**BY JUDICIARY AND RULES COMMITTEE****AN ACT**

RELATING TO SECURED TRANSACTIONS; AMENDING SECTION 28-9-516, IDAHO CODE, TO REVISE CERTAIN CONDITIONS UNDER WHICH FILING IS DEEMED NOT TO HAVE OCCURRED; AND AMENDING SECTION 28-9-707, IDAHO CODE, TO PROVIDE FOR THE AMENDMENT, CONTINUATION AND TERMINATION OF CERTAIN PREEFFECTIVE-DATE FINANCING STATEMENTS AND TO PROVIDE EFFECTIVE DATE REFERENCES.

S 1383**BY STATE AFFAIRS COMMITTEE****AN ACT**

RELATING TO PURCHASING AND PUBLIC WORKS CONTRACTS BY THE STATE OF IDAHO; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5707, IDAHO CODE, TO PROVIDE FOR HEALTH INSURANCE REQUIREMENTS FOR VENDORS AND PUBLIC WORKS CONTRACTORS; AMENDING CHAPTER 57, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-5711E, IDAHO CODE, TO PROVIDE HEALTH INSURANCE QUALIFICATION REQUIREMENTS FOR PUBLIC WORKS CONTRACTORS ELIGIBLE FOR AWARD OF A STATE CONTRACT; AND AMENDING SECTION 67-5711C, IDAHO CODE, TO PROVIDE AN ADDITIONAL STATUTORY CITATION.

S 1384**BY STATE AFFAIRS COMMITTEE****AN ACT**

RELATING TO COUNTY-BASED INTERMODAL COMMERCE AUTHORITIES; AMENDING TITLE 70, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 22, TITLE 70, IDAHO CODE, TO AUTHORIZE A COUNTY-BASED INTERMODAL COMMERCE AUTHORITY, TO SET FORTH PURPOSES, TO PROVIDE FOR ESTABLISHMENT AND ABOLISHMENT, TO PROVIDE FOR COMMISSIONERS, TO PROVIDE FOR THE COOPERATION OF COUNTIES, TO SET FORTH GENERAL POWERS OF A COUNTY-BASED INTERMODAL COMMERCE AUTHORITY, TO PROVIDE FOR RULES, POLICIES AND ORDERS, TO PROVIDE FOR SUPPLEMENTARY POWERS, TO PROVIDE FOR THE GRANTING OF OPERATION AND USE PRIVILEGES, TO PROVIDE FOR THE DISPOSAL OF PROPERTY, TO PROVIDE FOR BONDS AND OBLIGATIONS, TO PROVIDE FOR THE CREATION OF A DEBT SERVICE FUND, TO SET FORTH PROVISIONS APPLICABLE TO FEDERAL, STATE AND LOCAL MONEY AND TO PROVIDE FOR TAX EXEMPT STATUS.

S 1381, S 1382, S 1383, and S 1384 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 627, by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1271, by Transportation Committee, was read the second time at length and filed for third reading.

S 1224, by Bailey, was read the second time at length and filed for third reading.

H 522 and **H 523**, by Business Committee, were read the second time at length and filed for third reading.

S 1340, by Commerce and Human Resources Committee, was read the second time at length and filed for third reading.

H 500, as amended in the Senate, by State Affairs Committee, was read the second time at length and filed for third reading.

S 1234, as amended, and **S 1232**, as amended, by Judiciary and Rules Committee, were read the second time at length and filed for third reading.

S 1279, as amended, by Health and Welfare Committee, was read the second time at length and filed for third reading.

S 1243, as amended, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

S 1312, as amended, by Agricultural Affairs Committee, was read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

The President Pro Tempore called Senator Davis to the Chair.

S 1247, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Bunderson, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noh, Pearce, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 30.

NAYS--None.

Absent and excused--Brandt, Burkett, Hill, Noble, Richardson. Total - 5.

Total - 35.

Whereupon the Acting President declared **S 1247** passed, title was approved, and the bill ordered transmitted to the House.

S 1264 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Little arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Calabretta, Compton, Gannon, Goedde, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, McKenzie, McWilliams, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 23.

NAYS--Burtenshaw, Cameron, Darrington, Davis, Geddes, Marley, Noh, Pearce, Williams. Total - 9.

Absent and excused--Hill, Noble, Richardson. Total - 3.

Total - 35.

Whereupon the Acting President declared **S 1264** passed, title was approved, and the bill ordered transmitted to the House.

The President Pro Tempore returned to the Chair.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 11:50 a.m. until the hour of 10:15 a.m., Tuesday, February 24, 2004.

ROBERT L. GEDDES, President Pro Tempore

Attest: JEANNINE WOOD, Secretary